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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PHASE FORWARD INCORPORATED,

Plaintiff,

v.

MARY NOEL ADAMS,

Defendant.

CASE NO. C 05-4232 JF (HRL)

**STIPULATION AND ORDER
FOR RELEASE OF TTAB
RECORD**

Plaintiff PHASE FORWARD INCORPORATED ("Phase Forward") and defendant
MARY NOEL ADAMS ("Adams"), by and through their respective counsel, hereby
stipulate as follows:

RECITALS

WHEREAS, Adams filed an Application to register the mark PHASE FORWARD
with the United States Patent and Trademark Office ("USPTO") in International Class 35
for "Consultation services in the fields of product management, marketing and business
planning," under Serial No. 78169672, on October 1, 2002.

1 WHEREAS, Phase Forward opposed registration by Adams of the mark PHASE
 2 FORWARD (Opposition No. 91156778), on the grounds that the mark when used in
 3 connection with Adams' services so resembles Phase Forward's previously used and
 4 registered marks, and its "family" of marks, as to be likely to cause confusion, mistake or
 5 deception under Section 2d of the Lanham Act.

6 WHEREAS, on August 23, 2005, the Trademark Trial and Appeal Board issued a
 7 Final Decision denying Phase Forward's opposition to Adams' trademark application.

8 WHEREAS, Phase Forward filed this action on October 19, 2005, generally
 9 alleging trademark infringement and trademark dilution by Adams of certain PHASE
 10 FORWARD trademarks.

11 WHEREAS as part of this action, Phase Forward seeks *de novo* judicial review of
 12 the Final Decision of the Trademark Trial and Appeal Board denying Phase Forward's
 13 opposition to Adams' trademark application.

14 STIPULATION

15 Phase Forward Incorporated and Mary Noel Adams stipulate and agree that,
 16 pursuant to Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 904.02,
 17 the Trademark Trial and Appeal Board may release to this Court the original record for the
 18 case styled Phase Forward Incorporated v. Mary Noel Adams (Opposition No. 91156778
 19 to Serial No. 78169672), Final Decision for which was rendered on August 23, 2005.

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 21 DATED: May 18, 2006

PHILLIPS, ERLEWINE & GIVEN LLP

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 23 By: _____
 24 David M. Given
 Attorney for Plaintiff

25 DATED: May 18, 2006


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 27 _____
 Laura A. Thompson, Esq.
 Attorney for Defendant

ORDER

Good cause appearing, the Trademark Trial and Appeal Board is ordered to release to this Court the original record for the case styled Phase Forward Incorporated v. Mary Noel Adams (Opposition No. 91156778 to Serial No. 78169672), the Final Decision for which was rendered on August 23, 2005.

Counsel for plaintiff shall transmit this Order to the Trademark Trial and Appeal Board, Office of the Solicitor, within five (5) days of notice of entry. The Trademark Trial and Appeal Board, Office of the Solicitor, shall comply with this Order, and transmit the original record to this Court, within fifteen (15) days of receipt of this Order.

5/30/06



United States District Court Judge
Judge Jeremy Fogel